

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BATTLE CREEK STATE BANK,
Plaintiff,
v.
RC VENTURES, LLC, et al.,
Defendants.

Case No. [16-cv-04984-JD](#)

**ORDER REMANDING CASE AND
DENYING FEES**

Re: Dkt. Nos. 20, 22

In this removed action, plaintiff Battle Creek State Bank has filed a motion to remand, which is not opposed by either the removing party, Markou, LLC, or any of the other defendants who previously consented to the removal. Dkt. Nos. 20, 25. The parties consequently are in agreement that the case should be remanded back to state court. Based on this agreement and because the Court finds pursuant to 28 U.S.C. § 1447(c) that the case was removed improvidently and without jurisdiction, the Court orders the action remanded to the Superior Court of the State of California in and for the County of Marin.

Plaintiff has also filed a motion for attorney fees and costs, Dkt. No. 22, which is opposed. An award of fees and costs in a remand order under 28 U.S.C. § 1447(c) is not automatic, and is instead left to the district court's discretion. *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 139 (2005). This case presents somewhat of a close question, but the Court finds that fees and costs are not warranted under the standard set out in *Martin*, 546 U.S. 141. Plaintiffs' fees and costs motion is denied.

IT IS SO ORDERED.

Dated: November 7, 2016



JAMES DONATO
United States District Judge